

FIRST REGULAR SESSION

SENATE BILL NO. 332

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS DEMPSEY, SCHMITT, ENGLER, LEMBKE,
WRIGHT-JONES, McKENNA, GRIESHEIMER AND SHOEMYER.

Read 1st time February 9, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1550S.011

AN ACT

To amend chapter 287, RSMo, by adding thereto one new section relating to compensation for public safety workers killed in the line of duty.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 287, RSMo, is amended by adding thereto one new section, to be known as section 287.243, to read as follows:

287.243. 1. This section shall be known and may be cited as the "Line of Duty Compensation Act".

2. As used in this section, unless otherwise provided, the following words shall mean:

(1) "Emergency medical technician", a person licensed in emergency medical care in accordance with standards prescribed by sections 190.001 to 190.245, RSMo, and by rules adopted by the department of health and senior services under sections 190.001 to 190.245, RSMo;

(2) "Firefighter", any person, including a volunteer firefighter, employed by the state or a local governmental entity as an employer defined under subsection 1 of section 287.030, or otherwise serving as, a member or officer of a fire department either for the purpose of the prevention or control of fire or the underwater recovery of drowning victims;

(3) "Killed in the line of duty", when any individual defined in this section loses one's life when:

(a) Death is caused by an accident or the willful act of violence of another;

(b) The law enforcement officer, emergency medical technician,

21 paramedic, or firefighter is in the active performance of his or her
22 duties in his or her respective profession and there is a relationship
23 between the accident or commission of the act of violence and the
24 performance of the duty, even if the individual is off duty; the law
25 enforcement officer, emergency medical technician, paramedic, or
26 firefighter is traveling to or from employment; or the law enforcement
27 officer, emergency medical technician, paramedic, or firefighter is
28 taking any meal break or other break which takes place while that
29 individual is on duty;

30 (c) Death is the natural and probable consequence of the injury;
31 and

32 (d) Death occurs within three hundred weeks from the date the
33 injury was received.

34 The term excludes death resulting from the willful misconduct or
35 intoxication of the law enforcement officer, emergency medical
36 technician, paramedic, or firefighter. The division of workers'
37 compensation shall have the burden of proving such willful misconduct
38 or intoxication;

39 (4) "Law enforcement officer", any person employed by the state
40 or a local governmental entity as a police officer, peace officer certified
41 under chapter 590, RSMo, or serving as an auxiliary police officer or in
42 some like position involving the enforcement of the law and protection
43 of the public interest at the risk of that person's life;

44 (5) "Local governmental entity", includes counties, municipalities,
45 townships, board or other political subdivision, cities under special
46 charter, or under the commission form of government, fire protection
47 districts, and municipal corporations;

48 (6) "Paramedic", an emergency medical technician paramedic
49 certified by the department of health and senior services of the state;

50 (7) "State", the state of Missouri and its departments, divisions,
51 boards, bureaus, commissions, authorities, and colleges and
52 universities;

53 (8) "Volunteer firefighter", a person having principal employment
54 other than as a firefighter, but who is carried on the rolls of a regularly
55 constituted fire department either for the purpose of the prevention or
56 control of fire or the underwater recovery of drowning victims, the
57 members of which are under the jurisdiction of the corporate

58 authorities of a city, village, incorporated town, or fire protection
59 district. Volunteer firefighter shall not mean an individual who
60 volunteers assistance without being regularly enrolled as a firefighter.

61 3. (1) A claim for compensation under this section shall be filed
62 with the division of workers' compensation not later than one year
63 from the date of death of a law enforcement officer, emergency medical
64 technician, paramedic, or firefighter. A claim may be filed by the
65 estate of the deceased, or by a person who at the time of the injury is
66 a dependent or spouse of the deceased, or if such person is an
67 incapacitated or disabled person, or a minor, by the person's parent,
68 conservator, or guardian on behalf of the eligible claimant. If a claim
69 is made within one year of the date of death of a law enforcement
70 officer, emergency medical technician, paramedic, or firefighter killed
71 in the line of duty, compensation shall be paid, if the division finds that
72 the claimant is entitled to compensation under this section.

73 (2) The amount of compensation paid to the claimant shall be ten
74 thousand dollars for death occurring on or after August 28, 2009.

75 4. Notwithstanding subsection 3 of this section, no compensation
76 is payable under this section unless a claim is filed within the time
77 specified under this section setting forth:

78 (1) The name, address, and title or designation of the position in
79 which the law enforcement officer, emergency medical technician,
80 paramedic, or firefighter was serving at the time of his or her death;

81 (2) The names and addresses of the claimant;

82 (3) A full, factual account of the circumstances resulting in or the
83 course of events causing the death at issue; and

84 (4) Such other information that is reasonably required by the
85 division.

86 When a claim is filed, the division of workers' compensation shall make
87 an investigation for substantiation of matters set forth in the
88 application.

89 5. The compensation provided for under this section is in
90 addition to, and not exclusive of, any pension rights, death benefits, or
91 other compensation the claimant may otherwise be entitled to by law.

92 6. Neither employers nor workers' compensation insurers shall
93 have subrogation rights against any compensation awarded for claims
94 under this section. Such compensation shall not be assignable, shall be

95 exempt from attachment, garnishment, and execution, and shall not be
96 subject to setoff or counterclaim, or be in any way liable for any debt,
97 except that the division or commission may allow as lien on the
98 compensation, reasonable attorney's fees for services in connection
99 with the proceedings for compensation if the services are found to be
100 necessary. Such fees are subject to regulation as set forth in section
101 287.260.

102 7. Any person seeking compensation under this section who is
103 aggrieved by the decision of the division of workers' compensation
104 regarding his or her compensation claim, may make application for a
105 hearing as provided in section 287.450. The procedures applicable to
106 the processing of such hearings and determinations shall be those
107 established by this chapter. Decisions of the administrative law judge
108 under this section shall be binding, subject to review by either party
109 under the provisions of section 287.480.

110 8. Under section 23.253, RSMo, of the Missouri Sunset Act:

111 (1) The provisions of the new program authorized under this
112 section shall automatically sunset six years after the effective date of
113 this section unless reauthorized by an act of the general assembly; and

114 (2) If such program is reauthorized, the program authorized
115 under this section shall automatically sunset twelve years after the
116 effective date of the reauthorization of this section; and

117 (3) This section shall terminate on September first of the
118 calendar year immediately following the calendar year in which the
119 program authorized under this section is sunset.

120 9. The provisions of this section, unless specified, shall not be
121 subject to other provisions of this chapter.

122 10. There is hereby created in the state treasury the "Line of
123 Duty Compensation Fund". Upon appropriation, money in the fund
124 shall be used solely for paying claims under this section. The fund
125 shall consist of any moneys appropriated to the fund and any voluntary
126 contributions, gifts, or bequests to the fund. The state treasurer shall
127 be custodian of the fund and may approve disbursements from the fund
128 in accordance with sections 30.170 and 30.180, RSMo. Notwithstanding
129 the provisions of section 33.808, RSMo, to the contrary, any moneys
130 remaining in the fund at the end of the biennium shall not revert to the
131 credit of the general revenue fund. The state treasurer shall invest

132 moneys in the fund in the same manner as other funds are
133 invested. Any interest and moneys earned on such investments shall be
134 credited to the fund.

135 11. The division shall promulgate rules to administer this
136 section, including but not limited to the apportionment of claims to
137 multiple claimants, record retention, and procedures for information
138 requests. Any rule or portion of a rule, as that term is defined in
139 section 536.010, RSMo, that is created under the authority delegated in
140 this section shall become effective only if it complies with and is
141 subject to all of the provisions of chapter 536, RSMo, and, if applicable,
142 section 536.028, RSMo. This section and chapter 536, RSMo, are
143 nonseverable and if any of the powers vested with the general assembly
144 pursuant to chapter 536, RSMo, to review, to delay the effective date,
145 or to disapprove and annul a rule are subsequently held
146 unconstitutional, then the grant of rulemaking authority and any rule
147 proposed or adopted after August 28, 2009, shall be invalid and void.

Bill ✓

Copy